

IN THE HIGH COURT OF UTTARAKHAND AT NAINIAL

Writ Petition No. 1609 of 2006 (S/S)

Ramesh Chandra Tyagi,
S/o Sri Bhagwat Singh Tyagi,
R/o 149, Ram Nagar,
Roorkee, District Haridwar.

.....Petitioner.

Versus

- (1) State of Uttaranchal through Secretary,
Rural Development Department,
Government of Uttaranchal,
Dehradun.
- (2) Commissioner, Rural Development,
Uttaranchal, Pauri.
- (3) District Development Officer, Haridwar.

.....Respondents.

Sri Manoj Tewari, Advocate, for petitioner.
Sri N.P. Sah, Standing Counsel for respondents.

Hon'ble Prafulla C. Pant, J.

By means of this writ petition, moved under Article 226 of the Constitution of India, the petitioner has sought mandamus commanding the respondents to grant the petitioner pay scale of Rs. 8,000-13,500/-, admissible for the post of Block Development Officer, as second promotional pay scale on completion of his 24 years of continuous satisfactory service. He has further sought revision of his post retiral benefits accordingly.

(2) Heard Sri Manoj Tiwari, learned counsel for the petitioner and learned Standing Counsel for respondents.

(3) Brief facts of the case, as narrated in the writ petition, are that the petitioner was initially appointed as Gram Sewak w.e.f. 02.12.1966, with Rural Development Department. The said post later renamed as Gram Vikas Adhikari in the year 1981. The service conditions of Gram Sewaks / Gram Vikas Adhikari, are regulated by U.P. Rural Development (Gram Sewak) Service Rules, 1980. As per the 4th Pay Commission Report, the pay scale, w.e.f. 01.01.1986, of Gram Vikas Adhikari, was Rs/ 975-1600/-. It was subsequently revised to Rs. 3200-4900/- w.e.f. 01.01.1996, after the 5th Pay Commission Report is accepted. Meanwhile, the petitioner was given ad hoc promotion as Assistant Development Officer (Statistics) w.e.f. 18.11.1995 for a period of four months. The ad hoc promotion was extended from time to time and ultimately regular promotion as Assistant Development Officer (Statistics) in the pay scale of Rs. 1400-2300/-(un-revised) vide order dated 05.02.1999, was given

to the petitioner. The revised pay scale of Assistant Development Officer (Statistics) was Rs. 5,000-8,000/-w.e.f 01.04.2001. Consequently, pay fixation order dated 15.02.2006 (Copy Annexure 3) was passed by respondent no. 3, District Development Officer, Haridwar. An employee as per the revised scale was entitled on completion of 14 years continuous satisfactory service to the pay scale of the higher post and on completion of 24 years of continuous satisfactory service, to the second promotional scale (even if the promotion to the post is not given).The allegation of the petitioner is that seven similarly situated persons to him were granted notional promotion as Assistant Development Officer (Industry, Service & Business) from the deemed date vide Order No. 385, dated 24.05.2002. Thereafter, they were promoted as Joint Block Development Officer in the pay scale of Rs. 5000-8000/-, from the same date (Annexure 4 and 5 are the copies of said orders). It is further alleged by the petitioner that the juniors to him (except Mohan Chandra Pandey), are now getting pay sale of Rs. 8000-13,500/-of the cadre of Block Development Officer. Alleging that the petitioner's lien also continued like to the seven officers junior to him in the Rural Development Department, the writ petition has been filed for the reliefs as mentioned above.

(4) The respondents contested the petition and filed their counter affidavit, in which it is admitted that the petitioner was initially appointed on 02.12.1966 as Gram Sewak. His ad hoc promotions etc. as alleged in the petition are also not denied. However, it is stated in Para 7 of the counter affidavit

that petitioner had lost his lien in Rural Development Department as such his claim is not sustainable. In the supplementary counter affidavit, enclosing letter dated 26.02.1999, sent by the petitioner to the District Development Officer, Haridwar, it is stated that the petitioner himself chose that he is not desirous to go to the post of Village Development Officer (Industry, Service and Business), and would like to continue as Assistant Development Officer (Statistics).

(5) Having heard learned counsel for the parties and after going through the papers filed with the affidavit, counter affidavit and rejoinder affidavit, this Court finds that the petitioner got retired from service as Assistant Development Officer (Statistics) w.e.f. 31.03.2002. The order by which he is claiming parity of pay scale, as is clear from Annexure 4 and Annexure 5 to the writ petition, is dated 24.05.2002 i.e. after the retirement of the petitioner. The alleged junior persons who are granted the notional promotion have been promoted after retirement of the petitioner. Annexure 4, Order No. 385 dated 24th May 2002, passed by Directorate, I.R.D. clearly shows the promotion given to the eight persons by said order was a notional promotion of which no monetary benefit was given to them prior to the date i.e. May 24, 2002.. In other words, no monetary benefit was given to the eight persons till the date the petitioner got superannuated from service. As such, there is no entitlement to the petitioner to the pay scale of Rs.8,000-13,500/- and on its basis consequential revision of his pension,

(6) For the reasons as discussed above, this Court does not find any force in the writ petition. The petition is dismissed. No order as to costs.

(Prafulla C. Pant, J.)

Dt.27.8.2007
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